

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:

Chromparts, Inc.  
Dayton, Ohio,

Respondent.

)  
)  
) Docket No. CAA-5-99-016  
)  
) Proceeding to Assess an  
) Administrative Penalty  
) under Section 113(d) of the  
) Clean Air Act,  
) 42 U.S.C. § 7413(d)  
)

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Administrative Complaint

1. This is an administrative action for the assessment of a civil penalty brought pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Chromparts, Inc. (Chromparts), a corporation doing business in the State of Ohio.

Statutory and Regulatory Background

4. Pursuant to Section 112(b) of the Clean Air Act, 42 U.S.C. § 7412(b), the U.S. EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

(40 C.F.R. Part 63 Subpart N) on January 25, 1995. 60 F.R. 4963.

5. According to 40 C.F.R. § 63.340(a), the affected source to which the provisions of 40 C.F.R. Part 63 Subpart N apply is each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing.

6. According to 40 C.F.R. § 63.343(a)(1)(ii), the initial compliance date for the owner or operator of an existing affected source is no later than 2 years after January 25, 1995, if the affected source is a hard chromium electroplating tank.

7. According to 40 C.F.R. § 63.343(b)(1), the owner or operator of an affected source is required to conduct an initial performance test as required under § 63.7.

8. According to 40 C.F.R. § 63.7(a)(2)(iii), the owner or operator of an affected source required to do performance testing under a relevant standard shall perform such test within 180 days after the compliance date specified in an applicable subpart of 40 C.F.R. Part 63 for an existing source subject to an emission standard established pursuant to section 112(d) of the Act.

9. According to 40 C.F.R. § 63.343(c), the owner or operator of an affected source subject to the emission limitations of 40 C.F.R. Part 63, Subpart N, shall conduct monitoring according to the type of air pollution control technique that is used to comply with the emission limitation.

10. According to 40 C.F.R. § 63.343(c)(1)(ii), on and after the date on which the initial performance test is required to be completed under § 63.7, the owner or operator of an affected source shall monitor and record the pressure drop across the composite mesh-pad system once each day that any affected source is operating.

11. According to 40 C.F.R. § 63.346(b)(8), the owner or operator of an affected source shall maintain records of monitoring data required by § 63.343(c) that are used to demonstrate compliance with the standard.

12. According to 40 C.F.R. § 63.347(e)(1), a notification of compliance status report is required each time that an affected source becomes subject to the requirements of 40 C.F.R. Part 63 Subpart N.

13. According to 40 C.F.R. § 63.347(e)(2), the owner or operator of an affected source shall submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy, attesting to whether the affected source has complied with this subpart.

14. According to 40 C.F.R. § 63.347(e)(2)(iv), the owner or operator of an affected source shall include in the notification of compliance status the specific operating parameter value, or range of values, that corresponds to compliance with the applicable emissions limit for each monitored parameter for which

a compliant value is to be established under § 63.343(c).

15. According to 40 C.F.R. § 63.347(e)(2)(vii), the owner or operator of an affected source shall include in the notification of compliance status a statement that the owner or operator has completed and has on file the operation and maintenance plan as required under § 63.342(f).

16. According to 40 C.F.R. § 63.347(e)(3), the owner or operator of an affected source shall submit a notification of compliance status to the Administrator no later than 90 calendar days following completion of the compliance demonstration required by § 63.7 and § 63.343(b).

#### **General Allegations**

17. Respondent, Chromparts, is a corporation doing business in the State of Ohio.

18. Chromparts is a "person" as defined at 42 U.S.C. § 7602.

19. Chromparts owns and operates a facility located at 828 Hall Street, Dayton, Ohio.

20. The Chromparts facility includes chromium electroplating tanks which perform hard chromium electroplating.

21. The hard chromium electroplating tanks at the Chromparts facility are affected sources for purposes of 40 C.F.R. § 63.340.

22. Chromparts is an owner or operator of an affected

source subject to the provisions of 40 C.F.R. Part 63, Subpart N.

23. Chromparts began operating the hard chromium electroplating tanks at its facility prior to December 16, 1993.

24. Chromparts' hard chromium electroplating tanks are existing affected sources for purposes of 40 C.F.R. § 63.343(a).

25. Chromparts controls chromium emissions discharged to the atmosphere from its hard chromium electroplating tanks with a composite mesh-pad system as defined at 40 C.F.R. § 63.341.

26. On February 24, 1999, Richard C. Karl, Acting Director, Air and Radiation Division, Region 5, issued a Finding of Violation, pursuant to Section 113 of the Act, 42 U.S.C. § 7413, to Chromparts, alleging violations of the Federal regulations set forth at 40 C.F.R. §§ 63.342(f)(3)(i)(E), 63.343(b)(1), 63.343(c)(1)(ii), 63.346(b)(8), 63.347(e)(2), 63.347(e)(2)(iv), 63.347(e)(2)(vii), and 63.347(e)(3).

27. Although not required for violations of Section 112 of the Act, U.S. EPA offered Chromparts an opportunity to meet with U.S. EPA to discuss the Finding of Violation.

28. U.S. EPA and Chromparts discussed the Finding of Violation on March 16, 1999, via telephone.

29. Under Section 113(d) of the Act, 42 U.S.C. § 7143(d), the Administrator's authority to issue an administrative order assessing a civil administrative penalty is limited to matters where the first alleged date of violation occurred no more than

12 months prior to the initiation of the action, except where the Administrator and the Attorney General jointly determine that a matter involving a longer period of violation is appropriate for administrative penalty action.

30. Prior to the filing of this complaint, the Attorney General of the United States concurred with the determination of the Administrator of U.S. EPA, each through their respective delegates, that an administrative assessment of civil penalties is appropriate for the period of violations alleged in this Complaint.

31. Although not required by the Act, U.S. EPA gave Chromparts a written, pre-filing notice of this Complaint on June 8, 1999.

32. U.S. EPA's written, pre-filing notice, dated June 8, 1999, gave Chromparts the opportunity, prior to filing, to inform U.S. EPA of any factors relevant to the Complaint including the assessment of a penalty.

#### **Count I**

33. Paragraphs 1 through 32 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

34. According to 40 C.F.R. § 63.343(b)(1), Chromparts was required to conduct an initial performance test as required under 40 C.F.R. § 63.7, using the procedures and test methods listed in

40 C.F.R. § 63.7 and 40 C.F.R. § 63.344.

35. According to 40 C.F.R. § 63.7(a)(2)(i), Chromparts was required to conduct an initial performance test on or before July 24, 1997.

35. Chromparts failed to conduct an initial performance test using the procedures and test methods listed in 40 C.F.R. § 63.7 and 40 C.F.R. § 63.344 until October 22 and 23, 1997.

36. Chromparts' failure to conduct an initial performance test using the procedures and test methods listed in 40 C.F.R. § 63.7 and 40 C.F.R. § 63.344 until October 22 and 23, 1997, constitutes a violation of 40 C.F.R. § 63.343(b)(1).

37. Chromparts' violation of 40 C.F.R. § 63.343(b)(1) subjects it to the assessment of a civil penalty according to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

### **Count II**

38. Paragraphs 1 through 32 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

39. According to 40 C.F.R. § 63.343(c)(1)(ii), on or after July 24, 1997, Chromparts has been required to monitor the pressure drop across the composite mesh pad system (pressure drop) each day the source is in operation.

40. According to its monitoring records, Chromparts did not begin monitoring the pressure drop until December 7, 1997.

41. Chromparts' failure to begin monitoring the pressure drop until December 7, 1997, constitutes a violation of 40 C.F.R. § 63.343(c)(1)(ii).

42. Chromparts' violation of 40 C.F.R. § 63.343(c)(1)(ii) subjects it to the assessment of a civil penalty according to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

### **Count III**

43. Paragraphs 1 through 32 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

44. According to 40 C.F.R. § 63.346(b)(8), on or after July 24, 1997, Chromparts has been required to maintain records of the pressure drop monitoring data.

45. According to its monitoring records, Chromparts did not begin maintaining records of the pressure drop monitoring data until December 7, 1997.

46. Chromparts failure to begin maintaining records of the pressure drop monitoring data until December 7, 1997, constitutes a violation of 40 C.F.R. § 63.346(b)(8).

47. Chromparts' violation of 40 C.F.R. § 63.346(b)(8) subjects it to the assessment of a civil penalty according to Section 113(d) of the Act, 42 U.S.C. § 7413(d).



**Count IV**

48. Paragraphs 1 through 32 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

49. According to 40 C.F.R. § 63.347(e)(1), Chromparts was required to submit a notification of compliance status.

50. According to 40 C.F.R. § 63.347(e)(2), it is required that the notification of compliance status be signed by a responsible official of Chromparts certifying its accuracy and attesting to whether Chromparts has complied with 40 C.F.R. Part 63 Subpart N.

51. Chromparts notification of compliance status, submitted on October 6, 1998, was not signed.

52. Chromparts failure to have a responsible official sign the notification of compliance status certifying its accuracy and attesting to whether Chromparts has complied with 40 C.F.R. Part 63 Subpart N, constitutes a violation of 40 C.F.R. § 63.347(e)(2).

53. Chromparts' violation of 40 C.F.R. § 63.347(e)(2) subjects it to the assessment of a civil penalty according to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**Count V**

54. Paragraphs 1 through 32 of this Complaint are incorporated by reference as if fully set forth in this

paragraph.

55. According to 40 C.F.R. § 63.343(c)(1)(i), during its initial performance test, Chromparts was required to establish the pressure drop corresponding to compliance with the emission limitation as a site specific operating parameter.

56. According to 40 C.F.R. § 63.343(c)(1)(ii), to be in compliance with the emissions limit, Chromparts is required to maintain the pressure drop within  $\pm 1$  inch of water column of the pressure drop value established according to 40 C.F.R. § 63.343(c)(1)(i).

57. According to 40 C.F.R. § 63.347(e)(1), Chromparts was required to submit a notification of compliance status.

58. According to 40 C.F.R. § 63.347(e)(2)(iv), Chromparts was required to include in the notification of compliance status the specific range of values for pressure drop established pursuant to 40 C.F.R. § 63.343(c), that corresponds to compliance with the emission limit.

59. During its October 22 and 23, 1997, initial performance test, Chromparts established the pressure drop corresponding to compliance with the emissions limitation to be 31 millimeters of water column or approximately 1.2 inches of water column.

60. In its October 6, 1998, notification of compliance status, Chromparts indicated that the range of values of the pressure drop corresponding to compliance with the emissions

limitation was 6 to 8 inches of water column.

61. Chromparts' failure to include the proper range of values of the pressure drop corresponding to compliance with the emissions limitation in its October 6, 1998, notification of compliance status constitutes a violation of 40 C.F.R. § 63.347(e)(2)(iv).

62. Chromparts' violation of 40 C.F.R. § 63.347(e)(2)(iv) subjects it to the assessment of a civil penalty according to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**Count VI**

63. Paragraphs 1 through 32 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

64. According to 40 C.F.R. § 63.347(e)(1), Chromparts was required to submit a notification of compliance status.

65. According to 40 C.F.R. § 63.347(e)(2)(vii), Chromparts was required to include in its notification of compliance status a statement that Chromparts had completed and had on file the operation and maintenance plan as required in the work practice standards in 40 C.F.R. § 63.342(f).

66. Chromparts did not include a statement that it had completed and had on file the operation and maintenance plan as required in the work practice standards in 40 C.F.R. § 63.342(f) in its October 6, 1998, notification of compliance status.

67. Chromparts' failure to include a statement that it had completed and had on file the operation and maintenance plan as required in the work practice standards in 40 C.F.R. § 63.342(f) in its October 6, 1998, notification of compliance status, constitutes a violation of 40 C.F.R. § 63.347(e)(2)(vii).

68. Chromparts' violation of 40 C.F.R. § 63.347(e)(2)(vii) subjects it to the assessment of a civil penalty according to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

#### **Count VII**

69. Paragraphs 1 through 32 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

70. According to 40 C.F.R. § 63.347(e)(3), Chromparts was required to submit a notification of compliance status to the Administrator 90 days after the completion of its initial performance test.

71. Chromparts did not submit a notification of compliance status to the Administrator until October 6, 1998, or 348 days after the completion of its initial performance test.

72. Chromparts' failure to submit a notification of compliance status until 348 days after the completion of its initial performance tests, constitutes a violation of 40 C.F.R. § 63.3479(e)(3).

73. Chromparts' violation of 40 C.F.R. § 63.347(e)(3)

subjects it to the assessment of a civil penalty according to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**Notice of Proposed Order Assessing a Civil Penalty**

74. Pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, the Administrator of U.S. EPA may assess a civil penalty not to exceed \$27,500 per day of violation up to a total of \$220,000 for violations of requirements under the Act that occurred on or after January 31, 1997.

75. Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), requires the Administrator of U.S. EPA to take the following factors into consideration when determining the amount of any penalty assessment under Section 113:

- a. the size of Respondent's business;
- b. the economic impact of the proposed penalty on Respondent's business;
- c. Respondent's full compliance history and good faith efforts to comply;
- d. the duration of the violations alleged in the Complaint as established by any credible evidence;
- e. Respondent's payment of penalties previously assessed for the same violations;
- f. the economic benefit of noncompliance;
- g. the seriousness of the violations; and
- h. such other factors as justice may require.

76. Based upon the facts alleged in this Complaint and the

factors in paragraph 75 above, Complainant proposes to assess a civil penalty against Respondent of \$24,640. Complainant calculated this proposed penalty pursuant to Section 113(e)(1) of the Act. In developing the proposed penalty, Complainant considered the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy, a copy of which is enclosed with this Complaint.

77. The Act requires that, when determining an appropriate penalty, U.S. EPA must consider the economic benefit a violator derives from the alleged violations. The penalty must be sufficient to preclude the violator from deriving monetary benefit due to its having avoided or delayed expenditures that would have ensured compliance with the Act, both for deterrence purposes and because other regulated entities have incurred similar expenses in maintaining compliance with the Act. Because the subject violations involved only nominal economic benefit to the Respondent, no economic benefit penalty component was assessed.

78. In considering the seriousness of the violation, Complainant also considered the importance of the testing, work practice, monitoring, record-keeping, and reporting requirements to achieving the goals of the Act and its implementing regulations. These regulations are very important to the regulatory scheme of the Act because they are intended to limit

the release of chromium, an extremely hazardous air pollutant. Accordingly, the proposed penalty includes a component corresponding to the importance of these violations to the regulatory scheme.

79. Pursuant to the Act, Complainant has considered the duration of the violations in assessing the actual or possible harm resulting from such violations. The violations commenced on July 24, 1997, and continued through December 7, 1997. Thus, Complainant based the penalty on a four month duration of violations.

80. Pursuant to the Act, Complainant has considered the size of Respondent's business in determining the appropriate penalty. Respondent's net worth, as determined from a report prepared by the Dun & Bradstreet financial information service on November 30, 1998, is approximately \$428,874. Accordingly, the proposed penalty includes a component which is based on the size of Respondent's business.

81. In determining an appropriate civil penalty under the Act, Complainant has considered Respondent's compliance history and its good faith efforts to comply. Because Complainant is aware of no prior citations against Respondent for violations of environmental statutes, Complainant has not enhanced the proposed penalty based on this factor.

82. Pursuant to the Act, Complainant has considered the

economic impact of the penalty on Respondent's business. Based on the best information available to Complainant at this time, including the November 30, 1998, Dun & Bradstreet report, the proposed penalty of \$24,640 reflects a current presumption of Respondent's ability to pay the penalty and to continue in business.

83. Complainant developed the penalty proposed in this Complaint based on the best information available to U.S. EPA at this time. Complainant may adjust the proposed penalty if the Respondent establishes bonafide issues of ability to pay or other defenses relevant to the appropriateness of the penalty.

84. Respondent shall pay the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and shall deliver it, with a transmittal letter identifying the name of the case and docket number of this Complaint to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

Respondent shall also include on the check the name of the case and the docket number. Respondent simultaneously shall send copies of the check and transmittal letter to:



Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

and

Ignacio Arrázola, (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

**Opportunity to Request a Hearing**

85. Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2), requires the Administrator of U.S. EPA to provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty. Accordingly, you have the right to request a hearing to contest any material fact alleged in the Complaint and/or to contest the appropriateness of the amount of the proposed penalty. To request a hearing, you must specifically make the request in your Answer, as discussed in paragraphs 86 through 91 below. Any hearing which you request regarding the Complaint will be held and conducted in accordance with the provisions of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" (Consolidated Rules), 40 C.F.R. Part 22.

**Answer**

86. To avoid being found in default, you must file a written Answer to this Complaint with the Regional Hearing Clerk, (R-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, within 30 calendar days of your receipt of this Complaint. In computing any period of time allowed under this Complaint, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays and Federal holidays shall be included, except when a time period expires on such, in which case the deadline shall be extended to the next business day.

87. Your Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint, or must state clearly that you have no knowledge regarding a particular factual allegation which you cannot admit, deny or explain, in which case the allegation will be deemed denied.

88. Your Answer shall also state with specificity:

- a. the circumstances or arguments which you allege constitute grounds for defense;
- b. the facts that you intend to place at issue; and
- c. whether you request a hearing as discussed in paragraph 85 above.

89. Your failure to admit, deny or explain any material factual allegation in the Complaint will constitute an admission

of the allegation. The Consolidated Rules provide that any hearing that shall be held will be a "hearing upon the issues raised by the complaint and answer."

90. You must send a copy of your Answer and of any documents subsequently filed in this action to Ignacio Arrázola, Associate Regional Counsel (C-14J), U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. You may telephone Mr. Arrázola at (312) 886-7152.

91. If you fail to file a written Answer within 30 calendar days of your receipt of this Complaint, the Administrator of U.S. EPA may issue a Default Order pursuant to 40 C.F.R. § 22.17(a). Issuance of a Default Order will constitute a binding admission of all allegations made in the Complaint and a waiver of your right to a hearing. The proposed penalty will become due and payable without further proceedings 60 days after the Default Order becomes the Final Order of the Administrator pursuant to 40 C.F.R. § 22.27 or § 22.31.

#### **Settlement Conference**

92. Whether or not you request a hearing, you may request an informal conference to discuss the facts of this action and to arrive at a settlement. To request a settlement conference, write to Erik Hardin, Air Enforcement and Compliance Assurance Branch (AE-17J), Air and Radiation Division, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or

telephone Mr. Hardin at (312) 886-2402.

93. Your request for an informal settlement conference does not extend the 30 calendar day period during which you must submit a written Answer to this Complaint. You may pursue simultaneously the informal settlement conference and adjudicatory hearing processes. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. However, U.S. EPA will not reduce the penalty simply because the parties hold such a conference. Any settlement that the parties reach as a result of a conference will be embodied in a consent order. Your agreement to a consent order issued pursuant to 40 C.F.R. § 22.27 will constitute a waiver of your right to request a hearing on any matter stipulated to therein.

**Continuing Obligation to Comply**

94. Neither assessment nor payment of a civil penalty shall affect your continuing obligation to comply with the Act or any other Federal, State or local law or regulation.

Date

6/29/99



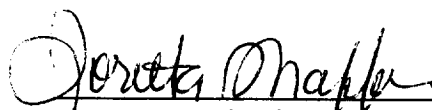
Margaret M. Guerriero, Acting Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

In the Matter of Chromparts, Inc.  
Docket No. : **CAA-5- '99 - 016**

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the foregoing Administrative Complaint to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies, along with a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, and a copy of the Penalty Policy (described in the Complaint) by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent or Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

on the 30th day of JUNE, 1999.



Loretta Shaffer, Secretary  
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: P 140 777 315